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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/825,470	04/15/2004	Charles Joseph Dellis	136845 (553-1143)	8120

45436 7590 10/08/2008  
DEAN D. SMALL  
THE SMALL PATENT LAW GROUP LLP  
225 S. MERAMEC, STE. 725T  
ST. LOUIS, MO 63105

EXAMINER
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LAMPRECHT, JOEL

ART UNIT	PAPER NUMBER
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3737

MAIL DATE	DELIVERY MODE
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10/08/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/825,470	<b>Applicant(s)</b> DELLIS, CHARLES JOSEPH	
	<b>Examiner</b> JOEL M. LAMPRECHT	<b>Art Unit</b> 3737	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 6/25/08.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-39 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-39 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>6/25/08</u> .   | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ogino et al (2002/0029264 A1) in view of Schweikard et al (US 6,501,981). Ogino et al distinctly point out and teach the use of a method and system for processing medical images through configuration of a system and control of access from multiple locations in order to facilitate post-processing operations to assist in diagnosis and treatment of patients (0101 - 0121). The post-processing allowing for specific types of post-processing operations to be performed per-user based on variable permissions via a WAN/LAN/VPN system (0103-0112), including real-time access to uploading and post-processing of medical images, storing recent images on the medical imaging system for quick access (0129-0150), retrieval of post-processed data by the local system for display on the local user interface for diagnosis or evaluation, post-processing operations being controlled by customizable settings (including an automated request and delay of time for processing) for different image types (0130-0154), and finally allowing different end-users to perform post-processing, acquisition, registration, or retrieval based on permissions within the server (0127-0153). The server itself uses multiple processing units to alleviate the processing load on the local imaging systems

Art Unit: 3737

(Figure 1-2), which then are only required to upload compressed images (0127-0130) and are not required to perform any of the post-processing operations on their local processor. This procedure is cited as "reducing processing load" (0005-0013) and allowing for continued acquisition of data (0067-0071, 0165-0173)). The system also performs billing and fee structures, and bases securities on individual end-user stations and settings (0117-0121), and provides the capability to perform image processing at a specific time after completion of operations of scanning for a day via a request system (0207-0235).

Regarding claims 1, 8, 10, 15, 24, 30, 33, 34 and 39 Ogino et al do not focus on the local processing (one of the plurality of locations being discussed in the independent claims) of images by the system or the remote control of the imaging system by a user at a different location than the system itself, nor is there a specific reference to ending the scanning for one day and starting the next day. Attention is then directed to the secondary reference by Schweikard et al, which describes a method for remote controlling an imaging system during a radiosurgical procedure. Their particular disclosure provides remote methods for remote motion-control of an imaging system, as well as compensation for motion artifacts via an adaptable marker-based motion detection system (Col 10 Line 55- Col 11 Line 55). Finally, they disclose image processing and display at the system-end (Figure 4, Col 4 Line 64- Col 6 Line 55) It would have been obvious to one having ordinary skill in the art at the time of the invention to have utilized the radiosurgery control methods disclosed by Schweikard et al with the post-surgery assessment and remote access data sharing methods of Ogino

Art Unit: 3737

et al for the purpose of providing remote access to an imaging system as well as a streamlined platform for reducing post-processing loads on the local system.

### ***Response to Arguments***

Applicant's arguments filed 6/25/08 have been fully considered but they are not persuasive. Regarding the amendments made in response to the 112 rejection, they have been accepted and the rejection has been withdrawn. Regarding the argument that Ogino et al does not qualify as art under 103(c) based on the fact that it is a 102(e) reference, Examiner respectfully turns Applicant's attention to the "previously published" data of the application for the issued 7,082,440 patent in question. There one can clearly see that the document was published on March 7, 2002, which makes the reference qualify as art under 102(b). This reference was meant to be cited on the first action, but as it was not, this rejection is accordingly issued as a non-final rejection.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JOEL M. LAMPRECHT whose telephone number is (571)272-3250. The examiner can normally be reached on Monday-Friday 8:30AM-5PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian L. Casler can be reached on (571)272-4956. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3737

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

JML

/Ruth S. Smith/  
Primary Examiner, Art Unit 3737